

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
SHAWN DRUMGOLD,	)	
Plaintiff	)	
	)	
v.	)	
	)	04-CV-11193-NG
TIMOTHY CALLAHAN, FRANCIS	)	
M. ROACHE, RICHARD WALSH and	)	
THE CITY OF BOSTON,	)	
Defendants	)	
_____	)	

**DEFENDANTS' FRANCIS M. ROACHE AND THE CITY OF BOSTON**  
**MOTION IN LIMINE TO EXCLUDE THE USE OF COURT OPINIONS TO**  
**DEMONSTRATE INSTANCES OF PAST POLICE MISCONDUCT**

Defendants the City of Boston and Francis M. Roache move the Court to *in limine* preclude from the evidence in the trial against them the opinions of the Massachusetts Supreme Judicial Court in Commonwealth v. Lewin, 405 Mass. 566, 542 N.E.2d 275 (1989) and Commonwealth v. Salman, 387 Mass. 160, 439 N.E.2d 245 (1982) and those opinions of the Suffolk Superior Court in Commonwealth v. Tarahn Harris, Findings of Fact and Rulings of Law on Defendant's Motion to Dismiss by J. Borenstein, dated June 17, 1994 and Commonwealth v. Christopher Harding, Memorandum and Order on Defendant's Motion for New Trial by J. Volterra, dated December 22, 1997. This motion seeks the exclusion of the documents themselves, as well as the ultimate findings contained therein.

As grounds therefore, the Defendants state as follow The opinions are hearsay, to which no exception applies. Further, the opinions speak to the ultimate issues in this case: specifically, whether the City of Boston had a custom, policy or practice of failing to train and supervise

officers and discipline them for misconduct. This issue is uniquely the province of the jury in this case to determine.

Further support for this Motion is provided in the accompanying Memorandum of Law.

Respectfully submitted,  
By Defendants City of Boston and  
Francis M. Roache  
Through their attorneys,

/s/ John P. Roache  
John P. Roache (BBO# 421680)  
Patrick J. Donnelly (BBO# 651113)  
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Date: January 28, 2008

CERTIFICATE OF SERVICE

I, John P. Roache, hereby certify that on January 28, 2008, I served a copy of the above upon counsel of record by filing with the ECF/Pacer Case Management System.

/s/ John P. Roache  
John P. Roache